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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

GARCIA, GABRIEL I

ART UNIT

PAPER-NUMBER

2624

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/787,330

Applicant(s)

EICHHORN ET AL.

Examiner

Gabriel I Garcia

Art Unit

2624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 13-15, 21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) 13-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 21 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

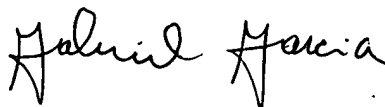
Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.



GABRIEL GARCIA
PRIMARY EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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Part III DETAILED ACTION

1. Applicant's election with traverse of Group I in Paper filed on 12/08/04 is acknowledged. The traversal is on the ground(s) that groups I and III are related. This is not found persuasive because even though independent claims have relating features (the use of image processing algorithm), claims are subcombinations distinct from each other and they are shown to be separately usable together. The inventions have separate utility such as to processing of digital data using an algorithm to execute the image processing, and to remote execution of an image processing algorithm through a network. Features of group III, such as the use of a remote execution through a network are not required in Group I, this feature of group III require further search in different classes and subclasses not required in Group I. See M.P.E.P. § 806.05(d). Claims 13-15 are withdrawn from further consideration by the Examiner, 37 C.F.R. § 1.142(b), as being drawn to a non-elected Group, the requirement having been traversed in Paper filed on 12/8/04.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

3. Claims 1-11 and 21-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Soenksen (6,711,283)

With regard to claim 1, Soenksen teaches a system for processing a digital image (e.g. fig. 1), comprising: a data storage area ((36 and/or 38) comprising a plurality of digital images (e.g. col. 6, lines 1-40); an image handler configured to obtain at least a portion of a digital image from the data storage area (e.g. col. 20, lines 29-64); an image processing algorithm comprising instructions for processing a digital image (e.g. col. 4, lines 62-65, col. 20, lines 21-65, col. 24, lines 53-65); and an execution manager configured to execute the image

processing algorithm instructions on the digital image obtained by the image handler (e.g. col. 12, lines 26-58).

With regard to claim 2, Soenksen further teaches wherein the data storage area is accessed via a data communication network (inherently reads on fig. 2, col. 12, lines 26-58., and col. 13, lines 14-41, the data can be receive or send from the computers to the scanner through the network 42).

With regard to claim 3, Soenksen further teaches wherein a plurality of image processing algorithm are stored in the data storage area (reads on col. 12, lines 26-44, e.g. the different programs or processing functions can be stored in the memory).

With regard to claim 4, Soenksen further teaches wherein the image processing algorithm comprises a plurality of subroutines (e.g. col. 4, lines 62-65, col. 20, lines 21-65, col. 24, lines 53-65, e.g. the different subroutines are represented by the functions or programs for processing the digital image(s)) .

With regard to claim 5, Soenksen further teaches wherein the execution manager receives a portion of the image processing algorithm via a data communication network (e.g. col. 20, lines 29-65 and col. 13, lines 14-41, e.g. the manager can receive a portion of an algorithm to perform only image magnification as the only option).

With regard to claim 6, Soenksen further teaches wherein the execution manager retrieves a portion of the image processing

algorithm from the data storage area (e.g. col. 20, lines 29-65 and col. 13, lines 14-41, e.g. the manager can receive from memory a portion of an algorithm to perform only image magnification as the only option).

With regard to claim 7, Soenksen further teaches wherein the execution manager is further configured to receive a plurality of parameters, wherein the parameters define a sub-region of the digital image retrieved from the data storage area (e.g. col. 16, lines 41-63, see also claim 11).

With regard to claim 8, Soenksen further teaches wherein the execution manager is further configured to receive a plurality of parameters, wherein the parameters control the execution of the image processing algorithm instructions (e.g. col. 16, lines 41-63, see also claim 11, e.g. control the resolution).

With regard to claim 9, Soenksen teaches a method for processing a digital image, comprising: receiving an image selection that uniquely identifies a digital image stored in a data storage area (e.g. col. 21, lines 42-63) comprising a plurality of digital images (e.g. col. 6, lines 1-40); receiving an algorithm selection that uniquely identifies a set of image processing instructions (e.g. col. 4, lines 62-65, col. 20, lines 21-65, col. 24, lines 53-65); receiving a set of image processing parameters (e.g. col. 16, lines 41-63), and executing the set of image processing instructions according to the set of parameters

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(e.g. col. 16, lines 41-63, e.g. to control the resolution).

With regard to claim 10, Soenksen further teaches wherein the set of image processing parameters controls the execution of the image processing instructions (e.g. col. 16, lines 41-63, e.g. to control the resolution).

With regard to claim 11, Soenksen further teaches wherein the set of image processing parameters defines a sub-region of the selected digital image to be processed (e.g. col. 16, lines 41-63, see also claim 11).

With regard to claim 21, the limitations of claim 21 are covered by the limitations of claims 1-11 above; and Soenksen teaches retrieving a second sub-region of the digital image from the data storage area (e.g. col. 16, lines 41-63, see also claim 11); executing the set of image processing instructions on the second sub-region and storing the results of the image processing on the second sub-region (e.g. col. 16, lines 41-63, see also claim 11, the second sub-region of tile is processed by using an algorithm to change the appearance and stored back into the memory).

With regard to claim 22, Soenksen further teaches wherein the digital image comprises a plurality of sub-regions and each sub-region is processed such that the set of image processing instructions is executed on the entire digital image (e.g. col. 12, lines 26-44 and see claim 11, e.g. different algorithms or

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functions can be applied to the different tiles or portions of the image until the whole image is processed).

Conclusion


4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bacus et al. (6,101,265) teaches a method and apparatus for acquiring and reconstructing magnified specimen images from a computer controlled microscope.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Gabriel I. Garcia** whose telephone number is (571) 272-7434. The Examiner can be reached from Monday through Thursday, from 7:30 am to 6:00 pm. The fax phone number for this group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 3272-2600.

Gabriel I. Garcia
Primary Examiner
April 18, 2005


GABRIEL GARCIA
PRIMARY EXAMINER